



Statutory Licensing Sub-Committee

Date Tuesday 28 March 2023
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

Items which are open to the Public and Press

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest
4. Application for the Review of a Premises Licence - The Drunken Duck, 91a Claypath, Durham, DH1 1RG (Pages 3 - 58)
5. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
20 March 2023

To: **The Members of the Statutory Licensing Sub-Committee**

Councillors L Brown, C Hunt, E Peeke and M Wilson

Contact: Jill Errington Tel: 03000 269703

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Statutory Licensing Sub-Committee

28th March 2023

**Application for the Review of a
Premises Licence**



Ordinary Decision

**Report of Alan Patrickson, Corporate Director of Neighbourhoods
and Climate Change**

**Councillor John Shuttleworth, Cabinet Portfolio Holder for
Neighbourhoods and Local Partnerships**

Electoral division(s) affected:

Elvet and Gilesgate

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application by Durham Constabulary to review the premises licence in respect of The Drunken Duck, 91a Claypath, Durham City DH1 1RG.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 6th March 2023, the Licensing Authority received an application and supporting certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider whether it is necessary to take interim steps pending determination of the full review of the premises licence within 48 hours of receipt of this application.
- 4 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises where there is the sale of alcohol and where it is considered the premises are associated with serious crime and / or serious disorder.
- 5 On 8th March 2023, the Licensing Statutory Sub-Committee met to consider the application and any necessary interim steps. Members decided to suspend the premises licence with immediate effect pending the full review hearing. A copy of the notice of determination is attached as Appendix 3.

- 6 At the time of writing the report, the representation period had not ended. Members will be updated prior to and at the hearing whether any representations have been received.
- 7 The Home Office and the Planning Authority responded to the consultation with no representations.

Recommendation(s)

- 8 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 9 The Sub-Committee is recommended to give appropriate weight to:
- (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
 - (c) Durham County Council’s Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 6;
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 7.

Background

- 10 Background information

Applicant	Durham Constabulary	
Type of Application: Review of a Premises Licence	Date received: 6th March 2023	Consultation ended: 20th March 2023
Premises Licence Holder	Durham Leisure Limited	
Designated Premises Supervisor (DPS)	Mr Terence Haley	

- 11 The premises licence in respect of The Drunken Duck currently permits the sale of alcohol for consumption on and off the premises, regulated entertainment and late-night refreshment as detailed in the table below:

Licensable Activity	Days & Hours
Sale of Alcohol (for consumption on and off the premises)	<p>Monday to Sunday: 10:00 – 00:00 hrs</p> <p>Non-standard timings: until 02:30 on no more than 12 occasions per year. An additional two hours on 1st and 17th March, 31st October, 24th, 26th, 27th, 28th, 30th December and on a Sunday preceding a Bank Holiday Monday. An additional hour on a Bank Holiday Monday. Extension of one hour on commencement of BST. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day</p>
Films and indoor sporting events	<p>Monday to Sunday: 10:00 – 00:00 hrs</p> <p>Non-standard timings: until 02:30 on no more than 12 occasions per year. An additional two hours on 1st and 17th March, 31st October, 24th, 26th, 27th, 28th, 30th December and on a Sunday preceding a Bank Holiday Monday. An additional hour on a Bank Holiday Monday. Extension of one hour on commencement of BST. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day</p>
Live music, recorded music and performances of dance (indoors)	<p>Monday to Sunday: 10:00 – 00:00 hrs</p> <p>Non-standard timings: no entertainment on Christmas Day. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day</p>
Late night refreshment (indoors and outdoors)	<p>Monday to Sunday: 23:00 – 00:00 hrs</p> <p>Non-standard timings: until 02:30 on no more than 12 occasions per year. An additional two hours on 1st and 17th March, 31st October, 24th, 26th, 27th, 28th,</p>

	30 th December and on a Sunday preceding a Bank Holiday Monday. An additional hour on a Bank Holiday Monday. Extension of one hour on commencement of BST. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day
Opening hours	Monday to Sunday: 10:00 – 00:30 hrs Non-standard timings: until 02:30 on no more than 12 occasions per year. An additional two hours on 1 st and 17 th March, 31 st October, 24 th , 26 th , 27 th , 28 th , 30 th December and on a Sunday preceding a Bank Holiday Monday. An additional hour on a Bank Holiday Monday. Extension of one hour on commencement of BST. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day

12 A copy of the current premises licence is attached at Appendix 4.

Details of the application

13 The review application was received by the Licensing Authority on 6th March 2023.

14 The application is deemed by the Licensing Authority to be relevant, and the application was advertised in accordance with the regulations.

15 The application for review relates to the following licensing objective:

- The Prevention of Crime and Disorder

16 A copy of the application and supporting certificate is attached at Appendix 5.

The Representations

17 At the time of writing the report, the consultation period had not ended. Members will be updated prior to and at the hearing if any further relevant representations are received.

18 Responses were received from the following Responsible Authorities, confirming that they had no representations to make in relation to the review application:

- The Home Office
- The Planning Authority

The Parties

19 The Parties to the hearing will be:

- Inspector Caroline Dickenson, Durham Constabulary (Applicant)
- Mr Terry Haley (premises licence holder and designated premises supervisor)
- Mr Richard Arnot, Wardhadaway Solicitors (representing the licence holder)
- Mr Richard Taylor, Gosschalks Solicitors (representing the licence holder)

Options

20 The options open to the Sub-Committee are:

- (a) To take no further action;
- (b) To modify or add conditions to the licence;
- (c) Exclude a licensable activity from the licence;
- (d) Remove the Designated Premises Supervisor;
- (e) Suspend the licence for a period (not exceeding three months);
- (f) Revoke the licence.

Main implications

Legal Implications

21 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

Consultation

22 The review application was subject to a 10-working day consultation.

See Appendix 1

Conclusion

23 The Sub-Committee is asked to determine the application for the review of the premises licence for The Drunken Duck, 91a Claypath, Durham City.

Background papers

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)

Other useful documents

- None
-

Contact: Helen Johnson

Tel: 03000 265101

Appendix 1: Implications

Legal Implications

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that:

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore, the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this, it was stated that any condition attached to the licence should be an enforceable condition.

Consultation

The premises licence review application was subject to a 10-day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

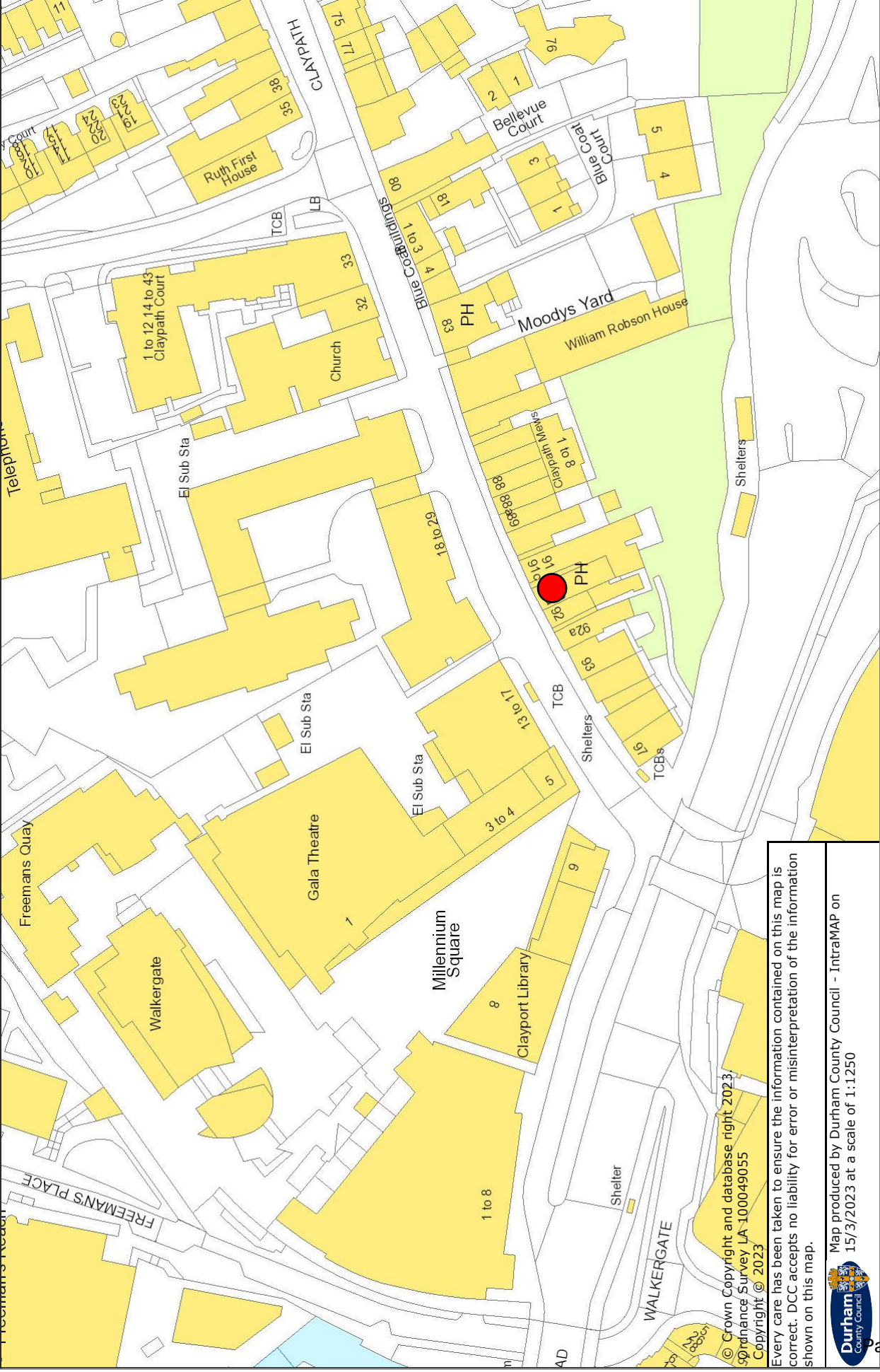
The notice of application was displayed on the premises for a period of 10 working days.

Notice of the application was displayed at the Council's Head Office at County Hall, Durham.

In addition, details of the application were available to view on the Council's website throughout the 10-working day consultation period.

Appendix 2: Location Plan

The Drunken Duck, 91a Claypath, Durham City



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 Ordnance Survey LA 100049055
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

Map produced by Durham County Council - IntraMAP on 15/3/2023 at a scale of 1:1250



Appendix 3: Notice of determination – Interim Steps Hearing

THE COUNTY COUNCIL OF DURHAM

Licensing Act 2003 (the Act) Committee

NOTICE OF DETERMINATION

Date of Hearing : 8th March 2023
Date of Determination : 8th March 2023
Committee Members : 1. Councillor J Blakey (Chair)
2. Councillor C Hunt
3. Councillor D Stoker

1. Type of application or hearing

Summary Licence Review

2. Applicant

Durham Constabulary

3. Premises

Drunken Duck, 91A Claypath, Durham City

4 The Application

4.1 For the summary review of a Premises Licence under section 53A of the Licensing Act 2003

5. Witnesses

- 5.1 The Sub-Committee heard from the following:
- Helen Johnson – Licensing Team Leader
 - Sgt Caroline Dickinson, Durham Constabulary
 - PC Ian Dickinson-Durham Constabulary
 - Mr Terence Haley-DPS and Licence Holder

6. Licensing Act 2003

6.1 The Sub-Committee has taken into account the relevant provisions of the Act.

7. Section 182 Guidance

7.1 The Sub-Committee has considered and taken account of the most recent edition of the Secretary of State Section 182 Guidance issued April 2018. The Sub-Committee has also considered the Section 53A Summary Review Guidance.

8. Licensing Policy

8.1 The Sub-Committee has considered and taken account of the Council's licensing policy.

9. Licensing Objectives

9.1 Prevention of crime and disorder

Evidence: The evidence provided was such that this objective had been breached and that some action was needed to prevent crime and disorder

9.2 Public Safety

Evidence It is not necessary to consider this objective for the purposes of this decision.

9.3 Prevention of Nuisance

Evidence It is not necessary to consider this objective for the purposes of this decision.

9.4 Protection of Children from Harm

Evidence It is not necessary to consider this objective for the purposes of this decision.

10. Evidence

Representations of Helen Johnson Licensing Team Leader

10.1 The Licensing Authority received a summary application and certificate under section 53A and B of the Licensing Act 2003 from the Chief Officer of Police of Durham Constabulary on 6th March 2023.

10.2 The premises licence holder and DPS is Mr Terence Haley.

10.3 A summary review is submitted where the police consider that the premises are associated with serious crime and/or serious disorder.

10.4 There will be a full review of the premises licence which must take place by 3rd April 2023

10.5 A notice has been displayed on the premises and on the Council's website advising of the review application and for any representations to be received by 20th March 2023.

Representations of Sgt Caroline Dickinson

11.1 On the evening of Saturday 4th March 2023hrs, a large scale disturbance took place at The Drunken Duck public house.

- 11.2 Police officers were dealing with a separate incident at the front of the premises when they were made aware of a large fight involving multiple people had taken place in the beer garden area situated to the rear of the premises.
- 11.3 Officers made their way through the premises at 23.54hrs, however upon arrival the disturbance appeared to be over although persons remained in the beer garden, one of whom, a male had injuries to his face.
- 11.4 Officers then viewed the CCTV system at the premises which showed the disturbance taking place at 23.48hrs. The footage shows a single member of door staff (in a white shirt) trying to separate two groups of males who appear to be arguing and pushing one another. Another door supervisor enters the area to assist in keeping the groups apart. The Sub-Committee were able to view the incident and the CCTV footage.
- 11.5 Two further door supervisors enter the beer garden area as multiple fights start involving the groups of males. There is three minutes of continual violence involving around ten persons where the level of violence is such that an offence of violent disorder contrary to section 2 of the Public Order Act 1986 is made out.
- 11.6 Door supervisors are seen to be extremely ineffective and appear to just stand back and let the disturbance take place. Durham Constabulary are aware that door supervisors' personal safety must be considered but at certain points door supervisor physical intervention could have occurred.
- 11.7 A male offender is seen to hit another male with a bar stool where a door supervisor could have prevented it. The fight appears to continue outside of the beer garden via a rear gate that is opened by the door staff and a male is seen to carry a bottle past three door supervisors and it someone with the bottle just outside of the gate.
- 11.8 There is no door supervisors to prevent the male from carrying out this action and they do no remove the bottle from the male and then allow the same male back in to the rear garden
- 11.9 The footage is described by attending officers as one of the worst bar fights they had ever seen. A male involved in the disturbance was spoken to at the scene and significant facial injuries were noted by the officers.
- 11.10 The footage of the disturbance is indeed shocking, and it is lucky that no one was seriously hurt or even killed with the level of violence being used by some of the people involved in the incident.
- 11.11 Durham Constabulary have significant concerns relating to the handling of the is incident by door supervisors, the footage shows door staff just standing back and letting the fight take place, ineffectively dealing with those using furniture and bottles as weapons and failing to eject all parties involved in the fight.
- 11.12 Durham Constabulary have serious concerns about the intoxication levels of the customers of the premises and there is a female on CCTV footage who is clearly very intoxicated that has not been removed from the premises or the violent incident.

11.13 Durham Constabulary feel that the crime and disorder licensing objective has been significantly undermined.

12. Representations of Licence Holder

12.1 Mr Haley confirms that he has been the DPS and Licence holder of The Drunken Duck premises at 91A Claypath, Durham City since December 2019. He also has premises at The Elm Tree, Durham City and The Angel, Durham City.

12.2 He confirms that he has worked with Durham Constabulary and Durham County Council consistently to ensure that he complies with his responsibilities as licence holder and DPS under the Licensing Act 2003.

12.3 He was not present on Saturday 4th March 2023 when the serious incident of crime and disorder occurred in his premises. He states that there were two managers at the premises that evening. On questioning by Sgt Dickinson, she stated that she had spoken to the licence holder by telephone prior to the hearing and he had stated that there was no one in management present on that evening. Sgt Dickinson stated that the persons present did not know how to access the CCTV footage for Durham Constabulary.

12.4 Mr Haley confirms that the problems arose that night because of the failings of the independent door staff contracted to control the premises that evening. He is horrified and embarrassed to view CCTV footage of the incident.

12.5 Mr Haley believes that he has been let down by the door staff who he had paid at premium cost to prevent such an incident.

12.6 He states that he was not present on the evening in question,

12.7 Mr Haley believes that the incident could have been prevented some forty minutes before the violent disorder, by ejecting the persons responsible when they started arguing. He believes that he has been let down by the door staff.

12.8 He states that if the licence is suspended then it will affect the livelihood of his family as the premises is run with limited cash flow each month.

12.9 He proposes a modification of the conditions of the licence to limit the capacity by 30%. He states that he will be present at the premises on Friday and Saturday evening. He will operate a strict policy of entrance to the premises. The individuals involved in the incident have been entered on the Pubwatch scheme and will not be allowed entry to his premises.

12.10 He will co-operate with police who are investigating the incident. Durham Constabulary confirm that there have been 22 assaults, 9 incidents of public disorder at the premises, 2 domestic abuse and 4 incidents of anti-social behaviour recorded on their intelligence system. Durham Constabulary also confirm that he has not attended some of the Pubwatch meetings and participated on the WhatsApp group which arose during Covid. Mr Haley confirms that he has only missed one meeting. Durham Constabulary confirm that he has not taken up offers of training on vulnerability or further training. Durham Constabulary confirm that to list the suspects of this serious incident on

Pubwatch after the event is not sufficient and it is a case of 'shutting the stable door after the horse has bolted.'

13. Reasons

- 13.1 Section 21 of The Violent Crime Reduction Act 2006 made amendments to the Licensing Act 2003 ('the Act'), by introducing the provision for a summary review. This added to the Act section 53A with supplementary sections 53B and 53C to deal with the subject.
- 13.2 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises licence where the same covers serious crime or serious disorder associated with premises.
- 13.3 It is accepted by the Committee that this does amount to serious crime and serious disorder and the application made in this case is in order and falls to be dealt with under section 53A, 53B and 53C of the Act
- 13.4 A serious incident of crime and disorder took place in the Drunken Duck, 91A Claypath, Durham City on Saturday 4th March 2023. There was no management on the premises that evening who took charge of the situation. The DPS and licence holder was not present. A vulnerable intoxicated person was visible in the CCTV footage and no effort was made to remove her from the scene. Glass was seen on the CCTV footage outside of the bar area. The Sub-Committee believe that this incident is too serious and cannot be remedied by modification of any of the conditions on the licen.
- 13.5 Having considered the information provided and taken account of the serious nature of it and the clear implications that the premises are associated with serious crime and disorder, the Committee considers that it has no alternative than to make the decision that it does

14 Decision

- 14.1 The Committee has considered the evidence given by Durham Constabulary and the licence holder and DPS and has decided:
- to suspend the premises licence with immediate effect.

Signed

Dated 8th March 2023

(Chair)

PLEASE NOTE:

- Under section 53B of the Licensing Act 2003, this decision has immediate effect.
- The Licensing Authority is required to serve this decision on the holder of the premises licence and the Chief Officer of Police.
- The holder of the premises licence is entitled to make representations to the Licensing Authority with respect to its decision and the Authority is required to hold a further hearing to consider such within 48 hours of receiving the same.
- Whether or not representations with respect to this decision are made, the Licensing Authority will continue to process and deal with the review of the premises licence occasioned by the application in accordance with the procedure for reviews set out or referred to in the Licensing Act 2003.

Appendix 4: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

LAPREG/05/0297
24 November 2005
23 June 2021

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>THE DRUNKEN DUCK 91A CLAYPATH DURHAM CITY DH1 1RG</p>	<p>DURHAM COUNTY COUNCIL NEIGHBOURHOODS AND CLIMATE CHANGE COMMUNITY PROTECTION LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>
<p>Telephone number:</p>	

<p>Where the licence is time limited the dates N/A</p>
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<p>Licensable activities authorised by this licence</p> <ul style="list-style-type: none"> Films Indoor Sporting Events Live Music Recorded Music Performance of Dance Facilities for Making Music Facilities for Dancing Late Night Refreshment Sale by retail of alcohol
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Opening Hours of the Premises																
	<table style="width: 100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">Mon</td><td style="padding: 2px;">10:00-00:30</td></tr> <tr><td style="padding: 2px;">Tue</td><td style="padding: 2px;">10:00-00:30</td></tr> <tr><td style="padding: 2px;">Wed</td><td style="padding: 2px;">10:00-00:30</td></tr> <tr><td style="padding: 2px;">Thu</td><td style="padding: 2px;">10:00-00:30</td></tr> <tr><td style="padding: 2px;">Fri</td><td style="padding: 2px;">10:00-00:30</td></tr> <tr><td style="padding: 2px;">Sat</td><td style="padding: 2px;">10:00-00:30</td></tr> <tr><td style="padding: 2px;">Sun</td><td style="padding: 2px;">10:00-00:30</td></tr> </table>	Mon	10:00-00:30	Tue	10:00-00:30	Wed	10:00-00:30	Thu	10:00-00:30	Fri	10:00-00:30	Sat	10:00-00:30	Sun	10:00-00:30	<p>Non-standard/seasonal timings</p> <p>Until 02.30 on no more than 12 occasions per calendar year, such extension to take place if at least 14 days notice is given to the police and the licensing authority and only if the police consent.</p> <p>An additional two hours on 1st March, 17th March, 31st October, 24th December, 26th December, 27th December, 28th December, 30th December and on Sunday preceding a Bank Holiday Monday</p> <p>An additional one hour on a Bank holiday Monday.</p> <p>Extension of one hour on commencement of British Summer Time.</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
Mon	10:00-00:30															
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Sun	10:00-00:30															

<p>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales: ON AND OFF ALCOHOL SALES</p>

The times the licence authorises the carrying out of licensable activities (all in 24hr format)

<p>Films Indoors</p> <p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-00:00 Sat 10:00-00:00 Sun 10:00-00:00</p>	<p>Further details</p> <p>N/A</p> <p>Non-standard/seasonal timings</p> <p>Non standard/seasonal timings: Until 02.30 on no more than 12 occasions per calendar year, such extension to take place if at least 14 days notice is given to the police and the licensing authority and only if the police consent. An additional two hours on 1st March, 17th March, 31st October, 24th December, 26th December, 27th December, 28th December, 30th December and on Sunday preceding a Bank Holiday Monday An additional one hour on a Bank holiday Monday. Extension of one hour on commencement of British Summer Time. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
<p>Indoor Sporting Events</p> <p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-00:00 Sat 10:00-00:00 Sun 10:00-00:00</p>	<p>Further details</p> <p>N/A</p> <p>Non-standard/seasonal timings</p> <p>Non standard/seasonal timings: Until 02.30 on no more than 12 occasions per calendar year, such extension to take place if at least 14 days notice is given to the police and the licensing authority and only if the police consent. An additional two hours on 1st March, 17th March, 31st October, 24th December, 26th December, 27th December, 28th December, 30th December and on Sunday preceding a Bank Holiday Monday An additional one hour on a Bank holiday Monday. Extension of one hour on commencement of British Summer Time. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
<p>Live Music Indoors</p> <p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-00:00 Sat 10:00-00:00 Sun 10:00-00:00</p>	<p>Further details</p> <p>No entertainment on Christmas Day.</p> <p>Non-standard/seasonal timings</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
<p>Recorded Music Indoors</p> <p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-00:00 Sat 10:00-00:00 Sun 10:00-00:00</p>	<p>Further details</p> <p>No entertainment on Christmas Day</p> <p>Non-standard/seasonal timings</p> <p>N/A</p>
<p>Performance of Dance Indoors</p> <p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-00:00 Sat 10:00-00:00 Sun 10:00-00:00</p>	<p>Further details</p> <p>No entertainment on Christmas Day</p> <p>Non-standard/seasonal timings</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>

<p>Facilities for Making Music Indoors</p> <p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-00:00 Sat 10:00-00:00 Sun 10:00-00:00</p>	<p>Further details No entertainment on Christmas Day Non-standard/seasonal timings From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
<p>Facilities for Dancing Indoors</p> <p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-00:00 Sat 10:00-00:00 Sun 10:00-00:00</p>	<p>Further details No entertainment on Christmas Day Non-standard/seasonal timings From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
<p>Late Night Refreshment Indoors and Outdoors</p> <p>Mon 23:00-00:00 Tue 23:00-00:00 Wed 23:00-00:00 Thu 23:00-00:00 Fri 23:00-00:00 Sat 23:00-00:00 Sun 23:00-00:00</p>	<p>Further details N/A Non-standard/seasonal timings Until 02.30 on no more than 12 occasions per calendar year, such extension to take place if at least 14 days notice is given to the police and the licensing authority and only if the police consent. An additional two hours on 1st March, 17th March, 31st October, 24th December, 26th December, 27th December, 28th December, 30th December and on Sunday preceding a Bank Holiday Monday An additional one hour on a Bank holiday Monday. Extension of one hour on commencement of British Summer Time. New Year's Eve: 23:00 – 05:00 on New Year's Day.</p>
<p>Sale by retail of alcohol</p> <p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-00:00 Sat 10:00-00:00 Sun 10:00-00:00</p>	<p>Further details N/A Non-standard/seasonal timings Until 02.30 on no more than 12 occasions per calendar year, such extension to take place if at least 14 days notice is given to the police and the licensing authority and only if the police consent. An additional two hours on 1st March, 17th March, 31st October, 24th December, 26th December, 27th December, 28th December, 30th December and on Sunday preceding a Bank Holiday Monday An additional one hour on a Bank holiday Monday. Extension of one hour on commencement of British Summer Time. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
DURHAM LEISURE LIMITED	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	
Charity no:	N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol

MR TERENCE HALEY

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol

Annex 1 – Mandatory conditions

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol -

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

- (a) a holographic mark, or
- (b) an ultraviolet feature.

The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Price of Alcohol:

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) “permitted price” is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Mandatory condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing in subsection (1) requires such a condition to be imposed-
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to-
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section-
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Mandatory condition: exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where-
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the premises Operating Schedule

General

None

The Prevention of Crime & Disorder

The company monitors the need for door supervisors and in so doing takes into account any advice given by the Police.

The pub manager is required to actively participate in and support local Pubwatch scheme (where active).

Text and/or radio pagers, where already used will be used for any additional hours.

Toughened glass is currently in use and will continue to be used during any additional hours.

Where existing, CCTV system will continue to operate during the additional hours.

In line with our Alcohol and Social Responsibility Policy there will be no promotions that encourage illegal, irresponsible or immoderate consumption.

Public Safety

The Premises shall have a sufficient frontage to a road or to an open space having sufficient access to a road to ensure the rapid dispersal of people from the premises in emergency.

Adequate arrangements shall be provided for access for the Fire Brigade for fire fighting.

The maximum number of people permitted within the premises shall be determined by the Council.

The premises shall be provided with adequate facilities to monitor and control the number of people present.

Suitable provisions shall be made to enable disabled people to use the premises including the provision of adequate access and means of escape.

All necessary safety checks shall be carried out before the admission of the public. Details shall be entered in the fire log book.

The premises shall be arranged to minimise the risk of noise nuisance to nearby properties.

There shall be adequate means of escape from all parts of the premises.

The premises and the fittings therein shall be constructed and maintained so as to minimise any risk of structural failure or collapse.

Adequate barriers or guarding shall be provided throughout the premises to minimise, so far as practicable, the risk of any person falling.

The premises shall be adequately protected against the effects of a fire occurring within the building or in any adjacent building.

Adequate provision shall be made to control the spread of smoke through the premises in the event of fire.

Where the safety curtain is provided, it shall be arranged so as to protect the audience from the effects of a fire or smoke on stage, for sufficient time to enable the safe evacuation of the auditorium.

Adequate protection against lightening shall be provided.

Details of any fire control measures incorporated in the premises shall be provided for the Fire Brigade.

The electrical installation [including temporary installations] shall be mechanically and electrically safe and suitable for the intended use of the premises.

All parts of the premises shall be provided with adequate illumination. All routes of escape and all parts of the premises to which the public have access shall be provided with adequate and assured illumination from two independent supplies and systems.

Adequate ventilation shall be provided to all parts of the premises so as to maintain healthy conditions.

Permanent means of heating all regularly occupied parts of the premises shall be provided and shall be arranged so as not to cause a safety or fire hazard.

The premises shall be provided with a permanent water supply [including water for fire fighting] and adequate drainage.

Adequate and free sanitary accommodation shall be provided, having regard to the type of entertainment to be given at the premises.

Adequate cloakrooms for patrons together with adequate changing rooms for staff including performers shall be provided, having regard to the operation of the premises.

Facilities for the preparation, cooking or sale of food shall prevent any risk of contamination of the food.

An adequate supply of free drinking water shall be provided for all staff including performers, together with free drinking water for patrons if required.

Adequate provision shall be made for the safe storage and ready removal of refuse.

A fire alarm warning system and efficient means of communication in case of an emergency shall be provided throughout the premises.

Efficient means shall be provided for calling the fire brigade in the event of fire.

Adequate fire-fighting equipment shall be provided for the premises.

Where a generator is installed it shall not present any fire or electrical hazard to the rest of the premises.

Where a generator is installed to provide an alternative electricity supply to emergency equipment or to emergency lighting it shall have sufficient capacity and be able to start operating sufficiently quickly to ensure safety in the event of the failure of the normal electricity supply.

An adequate supply of first aid equipment and materials must be available on the premises and at least one suitably trained first-aider must be on duty when the public are present. A First Aid Room shall be provided in any premises with an accommodation limit of 1000 or more people [or 1500 or more people in the case of a closely-seated auditorium].

The premises shall have adequate facilities for communication with the staff and the public.

Adequate safety signs shall be provided throughout the premises.

Curtains, hangings and temporary decoration and/or scenery, must be maintained flame-retardant. These must not obstruct exits, fire safety signs, or fire-fighting equipment. Any upholstered seating must meet the pass criteria for testing in accordance with section 5 of BS 5852 : 1990.

All facilities intended for use by the public shall be clearly indicated.

Any mechanical installation shall be arranged so as to minimise any risk to the safety of the public, performers and staff.

Any special effects shall be arranged so as to minimise any risk to the public, performers and staff. Written consent from the council is required before such special effects as fireworks, lasers, etc. may be used. Ten days notice in writing of any proposal to use special effects must be received.

Appropriate certificates shall be provided as evidence to the Council that the premises may be safely opened to the public.

The premises shall not without the written consent of the Licensing Authority be opened or used for the licensed purposes on Christmas Day.

Overcrowding in such a manner as to endanger the safety of persons present or to cause undue interference with their comfort must not be allowed in any part of the premises. No persons other than official stewards or other staff on duty at the premises shall be permitted to stand in any passageway, gangway or staircase leading to an exit from the premises so as to obstruct means of egress.

Any person employed or engaged as door/security staff must be door supervisors registered with the SIA.

Where a person is employed or engaged as a registered door supervisor the licensee shall maintain a register in the form approved by the Council showing in respect of each period of duty of that person -
. the name, date of birth, residential address and registration number of the person; . the date and time when the person commenced duty, countersigned by the person; . details of any time during the period of duty when the person was not on duty countersigned by the person; . details of any incident which occurs during the period of duty.

The register shall be kept at the licensed premises readily available for inspection during licensed hours by any authorised Officer of the Council or Constable who shall demand to inspect the same and the said Register shall be retained for period of three months.

A person who is employed or engaged as aforesaid and is on duty at the licensed premises shall at all times wear in a readily visible position an identification badge.

A person who is employed or engaged as aforesaid shall be at all times in a suitable condition to carry out the required duties. They shall conduct themselves in a proper manner at all times whilst on duty as a door supervisor and in particular are not permitted to consume any alcohol during any period of duty.

The Prevention of Public Nuisance

Reasonable steps are taken to recognise the rights of local residents and to encourage customers to leave the premises quietly.

Managers are required to liaise with local neighbours as part of their duties and resolve any reasonable concerns.

The Protection of Children from Harm

We recognise the importance of protecting children from harm and this is supported by:- Our commitment to health and safety in the operation and maintenance of the premises. Our approach to managing the risk of under-age drinking.

We will at all times observe the law and ensure that alcohol is not served to people who are under 18 years of age.

The manager and staff are briefed in the importance of their responsibilities in ensuring customers are over 18.

No adult entertainment (paid for by the company of a nude physical nature) is permitted at these premises. Any children under 16 remain the responsibility of the accompanying adult when using the premises (and/or exterior area).

Staff are not allowed to be in sole supervision of children which remains the responsibility of the accompanying adult at all times.

Annex 3 – Conditions attached after a hearing by the licensing authority

Licensing Statutory Committee Hearing - 24 August 2005

1. That the premises will display notices asking patrons to leave quietly and door supervisors will ask patrons to leave quietly.
2. That the designated premises supervisor attend the residents meetings when requested to do so.

Annex 4 – Plans attached

Attached

**Signature of Authorised Officer
Head of Community Protection**

Appendix 5: Review application and Certificate

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Durham County Council, Licensing Services
St Johns Road North, Meadowfield,
DH7 8RS

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I Sgt 484 Caroline Dickenson [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**The Drunken Duck
91A Claypath**

Post town: Durham

Post code (if known): **DH1 1RG**

2. Premises licence details:

Name of premises licence holder (if known): Durham Leisure

Number of premises licence holder (if known): LAPREG/05/0297

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

On the evening of Saturday 4th March 2023 at 23:48hrs, a large-scale disturbance took place at The Drunken Duck public house.

Police officers were dealing with a separate incident at the front of the premises when they were made aware of a large fight involving multiple people had taken place in the beer garden area situated to the rear of the premises.

Officers made their way through the premises at 23:54 hrs however upon arrival the disturbance appeared to be over although persons remained in the beer garden, one of whom, a male had injuries to his face.

Officers then viewed the CCTV system at the premises which showed the disturbance taking place at 23:48 hrs. The footage shows a single member of door staff (in a white shirt) trying to separate two groups of males who appear to be arguing and pushing one another. Another door supervisor enters the area to assist in keeping the groups apart.

Two further door supervisors enter the beer garden area as multiple fights start involving the groups of males. What follows is 3 minutes of continual violence involving around 10 persons where the level of violence is such that an offence of violent disorder contrary to S2 of the Public Order Act 1986 is made out.

Upon close viewing of the footage door supervisors are seen to be extremely ineffective and appear to just stand back and let the disturbance take place. Durham Constabulary appreciate that door supervisors' personal safety must be considered but at certain points door supervisor physical intervention could have occurred.

A male offender is seen to hit another male with a bar stool where a door supervisor could have prevented it. The fight appears to continue outside of the beer garden via a rear gate that is opened by the door staff and a male is seen to carry a bottle pass 3 door supervisors and hit someone with the bottle just outside of the gate.

No door supervisor is seen to prevent the male from carrying out this action, nor do they remove the bottle from the male and then allow the same male back in to the beer garden.

The footage was described by attending officers as one of the worst bar fights they had ever seen. A male involved in the disturbance was spoken to at the scene and significant facial injuries were noted by the officers.

The footage of the disturbance is indeed shocking, and it is lucky that no one was seriously hurt or even killed with the level of violence being used by some of the people involved in the incident.

Durham Constabulary have significant concerns relating to the handling of this incident by door supervisors; the footage shows door staff just standing back and letting the fight take place, ineffectively dealing with those using furniture and bottles as weapons and failing to eject all parties involved in the fight.

Durham Constabulary feel that the crime and disorder licensing objective has been significantly undermined and request expedited review of the premises licence.

Signature of applicant: Caroline Dickenson

Date: 06/03/2023

Capacity: Licensing Sgt

Contact details for matters concerning this application:

Address: **Durham County Council, Licensing Services**

St Johns Road North, Meadowfield,

DH7 8RS

Telephone number(s):

Email:

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Durham Constabulary
Force HQ
Aykley Heads
DH1 5TT

CERTIFICATE UNDER SECTION 53(a)(B) OF THE LICENSING ACT 2003

I hereby certify that in my opinion of the premise described below are associated with both serious crime and serous disorder.

Premises: **Drunken Duck, 91A Claypath, Durham, DH1 1RG**

Premise licence no: **LAPREG/05/0297**

Name of Premises licence holder: **Durham Leisure LTD**

I am a Chief Superintendent in Durham Constabulary

I am giving this certificate because I am of the opinion that the other procedures under the licencing Act 2003 are inappropriate in this case, and that it is proportionate in the circumstance for the reasons below.

Durham Constabulary responded to an incident which occurred on 4th March 2023 whereby serious crime and disorder has occurred at a licenced premises namely The Drunken Duck situated on Claypath, Durham City.

The incident involves a large-scale disturbance in the rear beer garden involving multiple male patrons fighting with each other.

I have viewed the cctv from the premise and the footage is of concern as it appears that the door supervisors involved are ineffective, standing back and letting the fight take place with limited intervention.

As a result of this incident people have sustained injuries and arrests were made.

The level of violence is such that an offence of violent disorder contrary to S2 of the Public Order Act 1986 is made out and is under investigation.

I question the management and running of this premise and conclude the only proportionate action available to address the serious nature of this incident and to prevent any further crime and disorder at the premises is to take action via an expediated review, whereby Durham Constabulary will be seeking suspension of the licence.

Signed

Dated 6th March 2023

Print Name Richard Allen

Title Chief Superintendent 1787

Appendix 6: Statement of Licensing Policy

3.10 Review of a premises licence or club premises certificate - At any stage during the life of an authorisation, any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named responsible authorities or by a person defined in the Act as 'any other person' e.g. residents, councilors, MPs etc. At any time following the grant of a licence or Club Premises Certificate, any person or responsible authority may apply for a review of it.

The Police may also submit a summary review if there is a premises associated with serious crime and disorder. When the council instigates a review, it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

Applications for review must relate to one or more of the licensing objectives and must not (where the review is submitted by any person who is not a responsible authority) be considered as frivolous, vexatious or repetitious by the licensing authority. Where an application for a review is frivolous vexatious or repetitious, or where an application for a review is considered not relevant to the licensing objectives, the council will reject it.

The council expects responsible authorities and other parties to give early notice to licence holders of any concerns about issues identified at premises and of the need for improvement. It is expected that requests for a review of any licence will be sought only if such notice has failed to resolve the matter or problem. It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues;
- Asking DCC Licensing Services to talk to those who manage the premises on your behalf; or
- Talking to the relevant "responsible authority" e.g. environmental health in relation to noise nuisance, or the police in relation to crime and disorder, about the problem.

A review application is also subject to a similar consultation period to that of a new licence or variation, during which relevant representations may be submitted. The Act provides strict guidelines, timescales and procedures for review applications and hearings and the council will deal with every review application in accordance with these rules. Further details on review applications can be found in Appendix IV of this policy.

At a review, the council may take the following steps (if any) where such steps are considered appropriate for the promotion of the licensing objectives:

- a) Modify the conditions of the licence
- b) Exclude a licensable activity from the scope of the licence
- c) Remove the designated premises supervisor
- d) Suspend the licence for a period not exceeding three months
- e) Revoke the licence.

In cases where there is evidence that the crime prevention objective is being undermined, revocation of the licence will be seriously considered by the authority, even in the first instance.

There is a right of appeal to the Magistrates' Court against the decision of the licensing sub-committee, and if an appeal is lodged by the licence-holder, the original decision of the licensing authority will not take effect until the appeal is determined or withdrawn. There is an exception to this in the case of a summary review brought only by the police.

7.1 The Prevention of Crime and Disorder - Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment can, if not properly managed, become a source of public nuisance, generating crime and disorder problems. **The council expects** all licensed premises to be properly managed at all times to prevent this from happening and will focus attention on standards of management practice at licensed premises when carrying out its administrative and enforcement functions.

The council encourages, and will look positively on, the provision by licensees of comprehensive and documented staff training. Documented staff training conducted in respect of:

- Preventing underage sales
- Minimising drunkenness
- Managing and resolving conflict
- Emergency procedures
- Compliance with the licence conditions
- Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol
- Identification and refusal of underage sales
- Use of accredited training courses and recognised industry qualifications (e.g. BII)

The council expects every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden, a marquee, in a smoking shelter etc.

The **council expects** all applicants to demonstrate, in their operating schedules, that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business, have been identified and will be implemented and maintained with the intention of preventing crime and disorder.

The council recommends that procedures to deal with drunken customers, violence and anti-social behaviour, in and outside premises, and the provision of closed-circuit television in certain premises should be considered by applicants, licencees and event organisers when addressing this issue.

The council encourages personal licence holders to actively participate in established “Pubwatch” schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the “Best Bar None” initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

The council recognises and promotes effective and responsible management of all licensed and authorised premises through competent, efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as ‘Challenge 25’. These are amongst the most important control measures for the achievement of all Licensing Objectives.

The council will take a positive view of anyone who invests in appropriate training, and nationally accredited qualifications tailored to the licensing sector. Training records should be kept available for inspection by relevant enforcement agencies as a matter of good practice.

It is important that qualified and competent people are present who can discuss any problems or matters of concern arising from the licensable activities at or near to the premises with officers from DCC Licensing Services and Police.

The council also considers it to be good practice if the DPS or premises licence holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises
- At all times when the premises are a “vertical drinking establishment” where little or no seating is provided
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

Maximum occupancy: When its discretion is invoked, the council will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (the Council’s Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service) before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

Security: Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives, they will need to be

licensed by the SIA as a supervisor/manager. The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment as well as the hours of trading.

Toughened/Safety Glass: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly relevant for high-volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues.

The council and several of its partners have signed a collective new pledge as part of an ongoing campaign to eradicate single use plastics. The agreement commits all signatories to significantly reduce, and work towards ultimately removing, the use of unnecessary single use plastics from their operations. If alternatives to normal glass are used, the use of suitable alternatives, including non-single use plastics, is encouraged.

Drugs/Knives/Weapons: The council will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands or consumed within the premises to prevent tragedies and harm because of drug misuse.

The council will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

In addition to the information provided above, **Table 1 in Appendix VI** provides recommendations, suggestions and examples for how to prevent the specific crime/disorder outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

Appendix 7: Section 182 Guidance

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.

11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility. The applicant must give notice of the review application to the responsible authorities and holder of the licence or certificate. The licensing authority is required to advertise a review application.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should

achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as relevant unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, consideration may be given as whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the licensing authority may be asked to consider whether it would be appropriate to publish a cumulative impact assessment. Further guidance on cumulative impact assessments can be found in Chapter 14 of this Guidance.
- 11.9 Responsible authorities and other persons may make representations in respect of an application to review a premises licence or club premises certificate. They must be relevant (i.e., relate to one or more of the licensing objectives) and, in the case of other persons, must not be frivolous or vexatious. Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order or illegal working compliance order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account

when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough

¹⁰ See chapter 16 in relation to the licensing of live and recorded music.
Page 46

action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order or illegal working compliance order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

12. Summary reviews

- 12.1 Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process, set out under sections 53A-53D of the 2003 Act, allows interim conditions to be quickly attached to a licence and a fast track licence review. The provisions were inserted by section 21 of the Violent Crime Reduction Act 2006 and amended by sections 136-137 of the Policing and Crime Act 2017, including the addition of section 53D.
- 12.2 The powers apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, or to premises operating under a club premises certificate. The powers are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives. The powers complement the general procedures in the 2003 Act for tackling crime and disorder associated with licensed premises and should be reserved for the most serious matters which cannot be adequately or otherwise redressed unless urgent action is taken. Separate powers in the Anti-social Behaviour, Crime and Policing Act 2014 provide for the instant closure of premises by the police in some circumstances (in essence, disorder or nuisance). The consequent review of premises licences by the licensing authority is provided for by section 167 of the Licensing Act 2003.

Application for summary review

- 12.3 Section 53A of the 2003 Act sets out who may apply for an expedited review and the circumstances in which it can be used. The application is made by, or on behalf of, the chief officer of police and must be made in the form which is set out in Schedule 8A to the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005/42).
- 12.4 The completed application must be accompanied by a certificate issued by a senior officer of the rank of superintendent or above. The certificate is a formal note which identifies the licensed premises and includes a signed statement by the senior officer that in his/her opinion the premises are associated with serious crime, serious disorder or both. This form is not prescribed in legislation. However, a sample form which forces may wish to adopt is published on GOV.UK.
- 12.5 The tests to determine the kinds of conduct that amount to serious crime are set out in section 81(2) and (3) of the Regulation of Investigatory Powers Act 2000. Those tests are that the conduct:
- (a) constitutes an offence for which a person who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; or
 - (b) Involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose.
- 12.6 There is no definitive list of behaviours that constitute serious disorder, and the matter is one for judgment by the local police. The phrase should be given its plain, ordinary meaning, as is the case under section 12 of the Public Order Act 1986 in which it is also used.

- 12.7 In deciding whether to sign a certificate, the senior officer should consider the following (as applicable):
- The track record of the licensed premises concerned and whether the police have previously had cause to give advice about serious criminal or disorderly conduct (or the likelihood of such conduct) attributable to activities taking place on the premises. It is not expected that this power will be used as a first response to a problem and summary reviews triggered by a single incident are likely to be the exception.
 - The nature of the likely crime and/or disorder – is the potential incident sufficiently serious to warrant using this power?
 - Should an alternative power be deployed? Is the incident sufficiently serious to warrant use of the powers in Part 4, Chapter 3 of the Anti-social Behaviour, Crime and Policing Act 2014, or section 38 of and Schedule 6 to the Immigration Act 2016, to close the premises? Or could the police trigger a standard licence review to address the problem? Alternatively, could expedited reviews be used in conjunction with other powers (for example, modifying licence conditions following the use of a closure power)?
 - What added value will use of the expedited process bring? How would any interim steps that the licensing authority might take effectively address the problem?
- 12.8 It is recommended that these points are addressed in the chief officer's application to the licensing authority. In particular, it is important to explain why other powers or actions are not considered to be appropriate. It is up to the police to decide whether to include this information in the certificate or in section 4 of the application for summary review. The police will also have an opportunity later to make representations in relation to the full review. In appropriate circumstances the police might want to make representations to the licensing authority suggesting that they modify the conditions of the premises licence to require searches of customers for offensive weapons upon entry. Under the powers in sections 53A to 53D, this could be done on an interim basis pending a full hearing of the issues within the prescribed 28-day timeframe or for an appropriate period determined by the licensing authority.
- 12.9 Similarly, the power could, where appropriate, be used to reduce the risk of injury caused by glass by requiring the adoption of a safer alternative (but see paragraphs 12.15 and 12.16 below). However, it should always be borne in mind that the aim of the powers is to provide a selective tool, to be used proportionately.

The licensing authority and interim steps pending the review

- 12.10 Within 48 hours of receipt of the chief officer's application, the licensing authority must give the premises licence holder and responsible authorities a notice of the review and should include a copy of the application for review and a copy of the certificate, and must also consider whether it is necessary to take interim steps (place temporary conditions on the licence). When calculating the 48 hour period any non-working day can be disregarded¹¹.
- 12.11 The licensing authority may want to consult the police about the steps that it thinks are

¹¹ This means that, for example, if the application was received at 3pm on a Friday, the 48 hour period would cover the remaining 9 hours on that Friday and the remaining 39 hours starting on the Monday morning (provided it was not a bank holiday). In this case the licensing authority would have to decide on interim steps by 3pm on the Tuesday.

necessary, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. This does not, of course, mean that the licensing authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.

12.12 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions are likely to be taken by a licensing sub-committee rather than the full committee. It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.

12.13 The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

12.14 If the licensing authority decides to take steps at the initial interim stage:

- the decision takes effect immediately, or as soon after it as the licensing authority directs; but
- the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application. The 2003 Act does not specify that the immediate notice has to be in writing. However, in an individual case the licensing authority may consider that the need for immediate communication at least initially requires a non-written approach, such as a telephone call. This may happen when, for example, the authority decides that the decision should have immediate effect. In such a case, the decision and the reasons for it should be explained clearly and in full to the licence-holder (or someone who may properly act for the licence-holder), and the call followed up as soon as possible with a written version of the decision and the reasons (for example, by email or fax) which is identical to, or not significantly different from, the version given by telephone.

12.15 The licensing authority, in deciding when its decision on interim steps should take effect, should consider the practical implications of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

12.16 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw

or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring.

Making representations against the interim steps

- 12.17 The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which would have to be completed within 28 days of the application being received by the licensing authority. On receipt of such representations, the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt. When calculating the 48 hour period, any non-working day can be disregarded. Where the licensing authority has already held a hearing to consider representations against the interim steps, the holder of the licence may only make further representations if there has been a material change in circumstances.
- 12.18 The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and/or serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) (which set out the usual processes governing the conduct of licensing authority hearings) do not apply in order to streamline the hearing process. One result of this is that the licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend at the scheduled time, as is the case under the normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified process, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford the holder a maximum practicable opportunity to prepare for and attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.
- 12.19 At the hearing to consider representations against interim steps the licensing authority must:
- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
 - determine whether to withdraw or modify the steps taken.
- 12.20 When considering the case the licensing authority must take into account:
- the senior officer's certificate that accompanied the application;
 - the chief officer's representations (if any); and
 - any representations made by the premises licence holder.
- 12.21 There is no right of appeal to a magistrates' court against the licensing authority's

decision at this stage.

The review of the premises licence under section 53C

- 12.22 The licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the chief officer's application. There can be no adjournment of the hearing or delay in reaching a determination beyond the end of the 28 day period. This must take place even if the chief officer or other responsible authority and/or other person asks to withdraw their application or representation (as the case may be). At the review hearing, the licensing authority must consider what steps are appropriate for the promotion of the licensing objectives taking into account the application and any change in circumstances since any interim steps were imposed, consider any relevant representations, and review the interim steps already taken (if any).
- 12.23 In making its final determination the steps the licensing authority can take are:
- the modification of the conditions of the premises licence;
 - the exclusion of a licensable activity from the scope of the licence;
 - the removal of the designated premises supervisor from the licence;
 - the suspension of the licence for a period not exceeding 3 months; and
 - the revocation of the licence.
- 12.24 Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.
- 12.25 The licensing authority must:
- advertise the review inviting representations from any persons for no less than seven consecutive days, by notice as described in regulation 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005/42) and, if applicable, on the licensing authority's website (see regulation 38(1)(b) of the above). The relevant notices should be published on the day after the day of receipt of the chief officer's application.
 - advertise that any representations which the premises licence holder, responsible authority or any other person want the licensing authority to consider at the review hearing, should be submitted to the licensing authority within 10 working days of the advertisement of the review appearing.
 - give formal notice of the hearing no later than five working days before the day or first day on which the hearing is to be held to the premises licence holder and to every responsible authority.
- 12.26 A party shall give to the licensing authority a notice no later than two working days before the day or the first day on which the hearing is to be held stating –
- whether he intends to attend or be represented at the hearing;
 - whether he considers a hearing to be unnecessary.
 - whether he would like permission for any other person (other than the person he intends to represent him at the hearing) to appear at the hearing and, if so, explain on which points that person will be able to contribute.

- 12.27 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). They apply to final hearings under the section 53A(2)(b) in a similar way to hearings following closure orders under section 167 of the 2003 Act (it should be emphasised that the truncated version of the hearings regulations described in paragraph 12.18 above applies to interim hearings only). The issues they address include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons to make representations in relation to any of the licensing objectives, not just crime and disorder. Similarly, where it is in the public interest, the regulations relating to the exclusion of individuals from hearings, or conducting the hearing in private, will apply.
- 12.28 The licensing authority must notify its decision and the reasons for making it to:
- the holder of the premises licence;
 - any person who made relevant representations; and
 - the chief officer of police who made the original application.

Review of the interim steps under section 53D

- 12.29 The licensing authority's determination does not have effect until the end of the 21 day period given for appealing the decision, or until the disposal of any appeal that is lodged (see below information on right of appeal). To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the hearing and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn. The review of the interim steps should take place immediately after the determination under section 53C has been reached. In making its decision, the licensing authority must consider any relevant representations made.
- 12.30 In conducting the review of the interim steps the licensing authority has the power to take any of the steps that were available to it at the initial stage (see paragraph 12.13). Any interim steps taken at the review hearing apply until—
- (a) the end of the period given for appealing against a decision made under section 53C (21 days),
 - (b) if the decision under section 53C is appealed against, the time the appeal is disposed of, or
 - (c) the end of a period determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under (a) or (b) above).

Right of appeal against review of interim steps decision

- 12.31 The licence holder or the chief officer of police may appeal against the decision made by the licensing authority concerning its review of the interim steps to a magistrates' court. The appeal must be made within 21 days of the appellant being notified of the licensing authority's decision and must be heard in full by the magistrates' court within 28 days beginning with the day on which the appellant lodged the appeal.

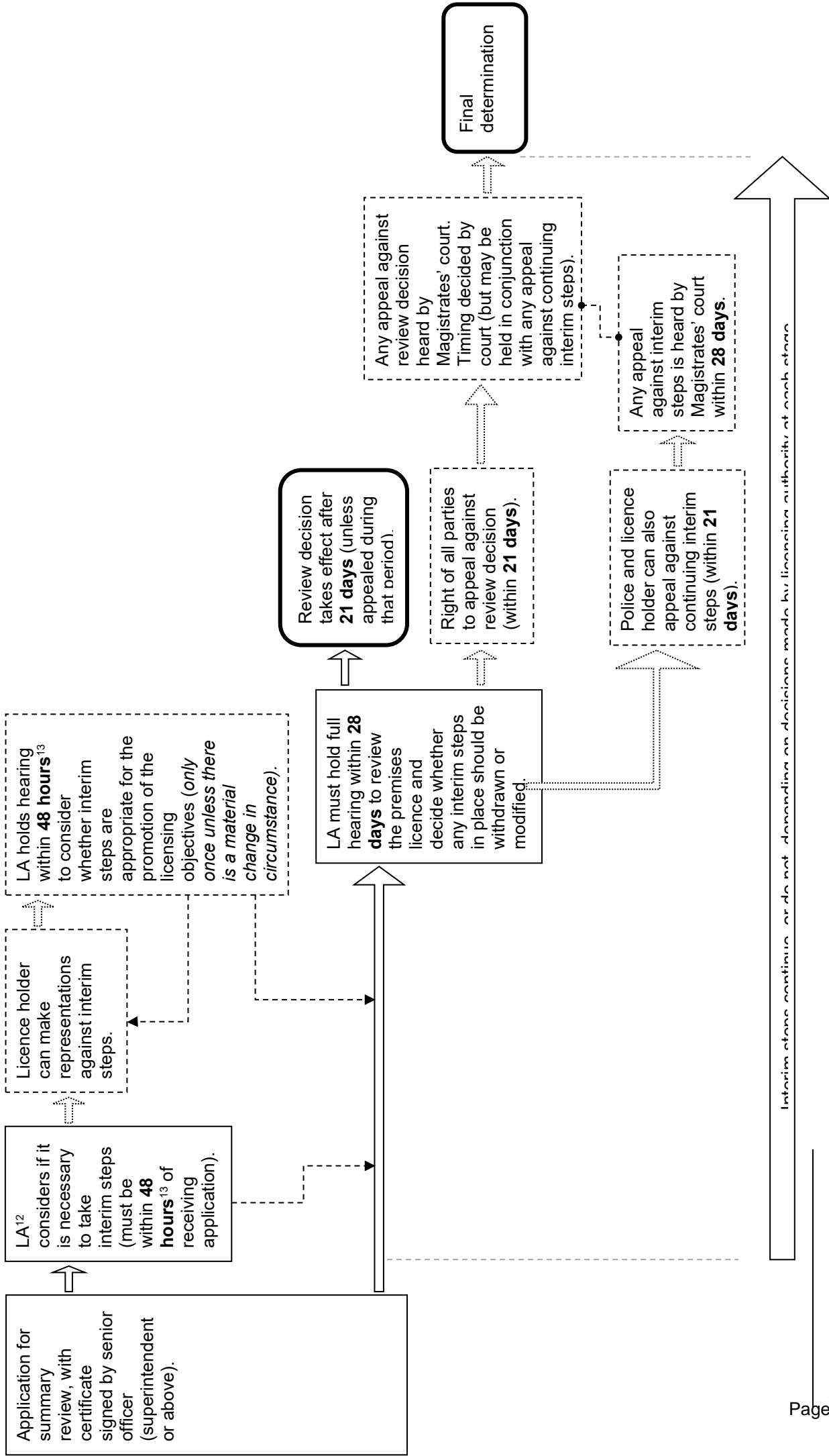
Right of appeal against final review decision

- 12.32 An appeal against the final review decision may be made to a magistrates' court within 21 days of the appellant being notified of the licensing authority's determination on the review. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.
- 12.33 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.
- 12.34 Where appeals are lodged both against the decision following the review of the interim steps and against the final determination, the courts may decide to consider the appeal against the final determination within the 28 day period, allowing the interim steps appeal to be disposed of at the same time.

Flow diagram of the summary review process

- 12.35 The following flow diagram summarises the process.

Summary review flowchart



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